Local Competition Rules Must Encourage Investment and Job Growth in the Telecommunications Industry

The current regulatory regime discourages job-creating investment in the telecommunications sector

- The FCC's Triennial UNE Review of local competition and unbundled network element (UNE) rules provides an opportunity to adjust rules to encourage investment in job-creating networks and to create a level playing field for competition based on quality service and innovation.

- The FCC review comes at a crucial time. The telecommunications industry is in the doldrums. More than half a million jobs have been lost in communications and information industries in the past 18 months. More than 43,000 union jobs were lost at the Bell companies, AT&T, and Lucent in 2002, representing 12 percent of the occupational workforce at these companies. Additional lay-offs have been announced for 2003.

CWA Job Loss - 2002	
Company	CWA-Represented Occupational Jobs Lost 2002
SBC	11,893
Verizon	9,721
Qwest	5,691
BellSouth	4,907
AT&T	3,170
Lucent	8,200
Total	43,582*

*Does not include workers represented by IBEW or management

- The Bell companies cut capital expenditures by $13.8 billion or 35 percent over the prior year.

- Cuts in capital expenditures are hurting equipment manufacturers. In 2002, Lucent cut 8,200 CWA-represented jobs, or 40 percent of the occupational workforce.

RBOC Capital Expenditure Cuts 2002 v 2001	
SBC	- $4.4 billion (-39%)
Verizon	- $5.4 billion (-31%)
BellSouth	- $2.3 billion (-39%)
Qwest*	- $1.9 billion (-39%)
Total RBOC	- $13.8 billion (-35%)

* Qwest 3Q02 v 3Q01
Source: Company 3Q02 Earnings Reports

The goal of the Telecommunications Act of 1996 is to encourage facilities-based competition

- One of the main goals of the Telecommunications Act of 1996 is to "encourage the rapid deployment of new telecommunications technologies." (Preamble to the Act) In Section 706 of the Act, Congress instructed the FCC to "encourage the deployment…of advanced telecommunications capability to all Americans…by utilizing…measures that promote competition in the local telecommunications market, or other regulating methods that <u>remove barriers to infrastructure investment</u>." (emphasis added)

- It is only by owning their own networks that new entrants are able to offer consumers new technologies and services, and that competition becomes deep-rooted and long-lasting.

- Facilities-based competition drives network innovation and job growth in every segment of the industry—on the network side, in customer care, and in equipment manufacture.

Excessive unbundling rules discourage job-creating infrastructure investment

- **By new entrants.** New entrants will not invest because renting access from incumbents is cheaper. According to one Wall Street analyst, the impact of the FCC's unbundling rules "has been to effectively devalue all infrastructure investment by everyone, incumbents and competitors alike…Why overbuild if one can lease it more cheaply than one can build it?" (Scott Cleland, Legg Mason Precursor Group, May 25, 2000.)

- **By incumbents.** Incumbents will not invest because they are forced to share the improvements with a competitor at a loss. According to the National Research Council, unbundling "is a disincentive for investment by the incumbent…because the incumbent cannot capture all of the benefits of its investments." (National Research Council, *Bringing Home the Bits,* 2002.)

Local competition and unbundling rules must encourage network investment and create a level competitive playing field

- **UNE-P does not create a level playing field.** The current unbundling rules require incumbents to lease at regulated rates local switching and local loops, which competitors combine into a platform known as UNE-P for resale. Competitors use UNE-P prices to market to business and high-revenue residential customers without making any investment in telecom facilities. The incumbent is left with the low-revenue customers, whose rates are subsidized. Since the rates incumbents charge are average rates, if competitors siphon off the small percentage of retail customers that subsidize those rates, incumbents do not recover the cost of the network.

- **Unbundling rules must create a level playing field for investment and competition.** The companies with the best service and customer care will win in the marketplace.

In its Triennial UNE Review, the FCC must adopt rules to encourage network investment and transition to facilities-based competition

- **Telecom Act's "impairment" standard.** The Telecommunications Act requires incumbents to unbundle and lease to competitors at regulated prices only those network elements (UNEs) without which competitors would be "impaired" in providing local service. Developments in the marketplace require adjustments to the current UNE regime.

- **Since local switching is available in abundance in the marketplace it should be removed from the unbundling regime.** Competitors have placed more than 1,300 circuit (voice) switches in local telephone wire centers that serve 86 percent of all access lines and have deployed at least 1,700 packet (data) switches. Competitors serve between 16 and 23 million lines using their own switches. Wireless companies bypass incumbents' switches.

- **Removing local switching from the UNE regime will not impair competition. It will facilitate the transition to facilities-based**

competition. Removing switching from the UNE regime will encourage competitors to invest in switching capacity as they move local customers' resold lines onto their own switches. This creates jobs and demand for the troubled equipment manufacturers. Competitors would continue to have the option to serve local customers with resold local loops purchased at regulated UNE prices, and to provide switching over their own facilities or at leased rates negotiated with the incumbents.

- **There must be an adequate transition period to phase out UNE-P.** Several thousand CWA members provide customer care to AT&T's local service customers. There must be an adequate transition period to enable those companies serving customers with UNE-P to move their customers' lines onto their switches. This is crucial to ensure employment security for customer service employees who currently serve local UNE-P customers, and for the companies to have a level playing field to grow their local business.

- **There must be strong performance measures and enforcement provisions to ensure compliance.** In a competitive environment, network providers have the incentive to increase revenue and traffic by selling wholesale capacity. State regulators and the FCC must adopt strong performance measures and enforcement provisions to ensure that these carriers provide excellent, prompt service to their wholesale customers. In particular, the performance measures and penalties for non-compliance must ensure that "hot cut" transfer of resold lines from incumbents' to competitors' switches occur in a timely, reliable fashion.

- **The FCC should retain jurisdiction over the definition of network elements.** Companies require regulatory certainty in order to grow their businesses. Once the FCC determines which network elements must be unbundled under the Telecommunications Act's impairment standard, state commissions should not be allowed to add to or subtract from the list.

- **The states must continue to have a role in setting UNE prices and performance monitoring.** The Telecommunications Act gives state regulators the authority to arbitrate interconnection and network element prices should commercial negotiations fail. This role will continue. Most states have adopted wholesale performance measures and it is appropriate to give the states a significant role in adjudicating compliance.

- **Public policy must encourage investment in universal, affordable broadband networks.** Universal broadband deployment will drive economic growth, provide countless social benefits, and create jobs in the telecommunications and information sector. The high-speed Internet access market is a nascent market with vibrant competition. Cable modems are beating wireline DSL by a two to one margin. Cable modems are not subject to unbundling or regulated prices, but DSL is. The same rules must be applied to all broadband services, regardless of the technology.